

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

Case No. 5087

CAMILLE DIANE RUSINIAK
17732 Steiner Circle
Huntington Beach, CA 92647

OAH No. 2014061112

Pharmacy Technician Registration Applicant

Respondent.

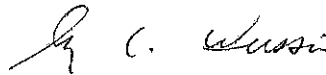
DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on December 3, 2014.

It is so ORDERED on November 3, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER
Board President

BEFORE THE
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In the Matter of the Statement of Issues
Against:

CAMILLE DIANE RUSINIAK,

Respondent.

Case No. 5087

OAH No. 2014061112

PROPOSED DECISION

Carla Nasoff, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on September 5, 2014, in San Diego, California.

Karen Gordon, Deputy Attorney General, Department of Justice, represented Virginia Herold (complainant), Executive Officer, Board of Pharmacy, Department of Consumer Affairs, State of California (board).

Camille Rusiniak (respondent) represented herself.

The matter was submitted on September 5, 2014.

FACTUAL FINDINGS

1. On May 3, 2014, complainant signed the Statement of Issues in her official capacity. The Statement of Issues alleged five causes for denial of the application based on multiple drug and alcohol-related convictions.

Application for Licensure

2. On April 24, 2013, respondent signed an Application for a Pharmacy Technician Registration. On May 20, 2013, the board received the application. On October 16, 2013, the board denied the application based on multiple drug and alcohol-related convictions.

Respondent's Convictions

3. On October 18, 2006, respondent was convicted on her plea of guilty for violating Health and Safety Code sections 11350, subdivision (a), possession of a controlled substance, heroin¹, a felony; and 11364, subdivision (a), possession of a controlled substance paraphernalia, a misdemeanor. The court ordered respondent to complete a drug treatment program, but she was terminated for noncompliance. Respondent was sentenced to 270 days in the county jail that was stayed while respondent completed another court ordered drug treatment program.

4. On February 26, 2007, respondent was convicted on her plea of guilty for violating Vehicle Code sections 23152, subdivision (a), driving under the influence of alcohol; and 23152, subdivision (b), driving with a blood alcohol concentration (BAC) of .08 percent or more, both misdemeanors. Respondent was placed on three years informal probation and ordered to complete a first offender program. After failing to comply with the program, respondent's probation was revoked, and she was sentenced to serve seven days in jail.

5. On January 14, 2008, respondent was convicted on her plea of guilty for violating Health and Safety Code section 11350, subdivision (a), possession of a controlled substance, buprenorphine², a felony. Respondent was placed on three years formal probation and ordered to complete a drug treatment program. After multiple probation violations, respondent was terminated from the drug treatment program. Respondent was sentenced to serve 270 days in jail that was stayed while respondent participated in drug court.

6. On May 27, 2011, the court granted respondent's motion to dismiss the above convictions pursuant to Penal Code section 1385 and 1203.4.

Circumstances Leading to the Convictions

7. The circumstances giving rise to the convictions occurred from 2006 through 2009. Respondent lived in her car for part of that time, used heroin, abused alcohol and associated with known drug users.

¹ Heroin is a Schedule I controlled substance as designated by Health and Safety Code section 11054, subdivision (c)(11), and is a dangerous drug pursuant to Business and Professions Code section 4022.

² Buprenorphine is a Schedule III controlled substance as designated by Health and Safety Code section 11056, subdivision (e), and is a dangerous drug pursuant to Business and Professions Code section 4022.

Respondent's Testimony

8. In 2013 respondent graduated from a pharmacy technician program at Everest College in Santa Ana, California. Since 2008, respondent has worked as a barista at Starbucks.

9. Respondent testified that she used controlled substances from 2006 to 2009. Her choice of drugs was heroin. Respondent testified, "I was distracted by someone who was not helpful . . . I let a man come into my life and I was weak." Respondent was convicted of two felony drug charges and committed multiple probation violations from 2006 through 2009. She spent a total of 35 days in county jail. Respondent testified that she was ashamed of her actions and committed multiple probation violations because she was not "ready" to commit to a life of sobriety. She described her criminal history as, "looking worst on paper."

10. Respondent testified that she turned her life around in 2009. She testified, "I am happy today, I love my life My sobriety date is August 30, 2009." Respondent maintained that she no longer has any contact with other addicts. She submitted a character reference letter from a friend she met in recovery who understood the struggles of addiction. Respondent's son was born in 2012, and caring for him gives her motivation to stay sober. She testified that on a daily basis she makes contact, either by phone or in person, with her Alcohol Anonymous (AA) sponsor. She briefly participated in one-on-one counseling but described her experience as unproductive because, "sitting in a chair was very unappealing."

11. Respondent passionately described her deep desire to remain sober and proudly displayed her five-year sobriety token. She maintained a 4.0 GPA in the pharmacy technician program. She has maintained steady employment at Starbucks for the past six years. In 2011, she successfully completed an 18-month drug court program that involved random drug testing. She understood the board's concern and testified, "Am I a risk? Yes. I understand why we are here. I made mistakes."

Testimony of Inspector Joshua Lee, Ph.D.

12. Dr. Joshua Lee received his Ph.D. in Pharmacy in 2006 from Pacific University, Stockton, California. He is licensed as a Pharmacist and has had hospital and retail experience. He has been an inspector with the board for the past three years. His job duties include conducting investigations and reviewing applications.

Dr. Lee has experience working with pharmacy technicians. He testified that pharmacy technicians have access to controlled substances and often work without direct supervision. Dr. Lee testified, "As a pharmacist I have to rely on pharmacy technicians to correctly process orders and handle dangerous drugs. The pharmacist does not always see what the pharmacy technician is doing and must be able to trust the technician to properly handle medications."

Dr. Lee reviewed respondents' past criminal convictions involving drug and alcohol use. He testified, "She is a high risk applicant. She used heroin, a Class I dangerous drug which has a high potential for addiction." Based on his review and investigation, he believed respondent exhibited poor judgment and repeatedly failed during the rehabilitation process. Dr. Lee believed it would be against the public interest to permit respondent, at this time, to obtain her pharmacy technician registration.

LEGAL CONCLUSIONS

Standard of Proof

1. In a proceeding involving the issuance of a license, the burden of proof is on the applicant to show that she is qualified to hold the license. In order to prevail, respondent must demonstrate by a preponderance of the evidence that she is entitled to a pharmacy technician registration. (Evid. Code §§ 115, 500.)

Applicable Statutory and Regulatory Provisions

2. The board may refuse a license to any applicant guilty of unprofessional conduct. (Bus. & Prof. Code § 4300, subd. (c).)

3. The provisions of this division govern the denial of licenses on the grounds of a conviction of a crime. (Bus. & Prof. Code § 475, subd. (a)(2).)

4. A board may deny a license on the grounds that the applicant has been convicted of a crime, (irrespective of a subsequent order under the provision of section 1203.4 of the Penal Code); has done any act that if done by a licentiate would be grounds for suspension or revocation of license; and if the crime or act is substantially related to the qualifications, functions, or duties of the profession for which the application is made. (Bus. & Prof. Code § 480, subs. (a)(1), (3)(A) & (3)(B).)

5. For purposes of denial, a crime or act shall be considered substantially related to the qualifications, functions or duties of a registrant if to a substantial degree it evidences present or potential unfitness of a registrant to perform the functions authorized by his registration or in a manner consistent with the public health, safety, or welfare. (Cal. Code Regs., tit.16 §1770.)

6. The board shall develop criteria to evaluate the rehabilitation of a person when considering the denial of a license and shall take into account all competent evidence of rehabilitation furnished by the applicant. (Bus. & Prof. Code § 482, subd. (a).)

7. Successful completion of a diversion program or completion of an alcohol and drug problem assessment program shall not prohibit the agency from denying a license for professional misconduct. (Bus. & Prof. Code § 492.)

8. The record of conviction of a crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline. (Bus. & Prof. Code § 493.)

9. Business and Professions Code section 4301, subdivisions (h)(j)(k)(l), provides that the board may take disciplinary action against any holder of a license who is guilty of unprofessional conduct. . . Unprofessional conduct shall include but is not limited to, any of the following:

[¶] . . . [¶]

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself. . . .

[¶] . . . [¶]

(j) The violation of any of the statutes of this state, or any other state, or of the United States regulating controlled substances and dangerous drugs.

(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

(l) The conviction of a crime substantially related to the qualifications, functions and duties of a licensee The record of conviction of a violation . . . regulating controlled substances or of the violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. . . .

10. California Code of Regulations, title 16, section 1769 subdivision (b)(1-5), provides that the board, in evaluating the rehabilitation of the applicant and her present eligibility for registration, will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s) under

consideration as grounds for denial.

(2) Evidence of any . . . crime(s) under consideration as grounds for denial under section 480 of the Business and Professions Code.

(3) The time that has elapsed since commission of the act(s) or offense(s) referred to in subdivision (1) or (2).

(4) Whether the applicant has complied with any terms of . . . probation

(5) Evidence, if any, of rehabilitation submitted by the applicant.

Substantial Relationship

11. Respondent's convictions for drug possession and alcohol use are substantially related to the qualifications, functions and duties of a pharmacy technician because her misconduct reflects a lack of sound professional and personal judgment that is relevant to her fitness and competence to practice safely as a pharmacy technician. The felony convictions of heroin and buprenorphine possession, both controlled substances, are conclusive evidence of unprofessional conduct. Respondent also testified she used heroin, which demonstrated poor judgment and lack of self-control. Respondent engaged in unprofessional conduct when she used alcohol in a manner dangerous or injurious to herself and others and was convicted of driving while under the influence. Respondent's multiple felony and misdemeanor convictions of statutes regulating controlled substances is conclusive evidence of unprofessional conduct. The board may refuse a license of any applicant guilty of unprofessional conduct irrespective of a subsequent order under the provision of section 1203.4 of the Penal Code or completion of a drug diversion program.

Rehabilitation

12. Respondent has shown several indicia of rehabilitation. Five years have passed from her last misconduct. Her convictions were expunged. She has been law abiding and sober since August 2009. She successfully completed her college courses while maintaining full-time employment.

However, significant corroborative evidence was missing from respondent's showing of rehabilitation. No recent drug testing results were submitted that would corroborate her testimony concerning her sustained sobriety. No co-worker or employer, who presumably would know respondent well, wrote a letter on her behalf. Respondent described her

criminal record as “looking worst on paper” which demonstrated she did not fully accept responsibility for her actions. Fully acknowledging the wrongfulness of past actions is an essential step toward rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal. 3d 933, 940.) The amount of evidence of rehabilitation required to justify admission varies according to the seriousness of the misconduct at issue. (*Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1086.) In this case, the misconduct is serious. Heroin is a highly addictive schedule II controlled substance. As a pharmacy technician, she would have access to controlled substance without direct supervision. Her repeated failure to comply with court ordered probationary terms was concerning, particularly in a job setting where she would readily have access to controlled substances.

Evaluation

13. Respondent exhibited poor judgment and repeatedly failed during the rehabilitation process. She repeatedly used heroin and was convicted of driving while under the influence of alcohol. Her conduct was dangerous or injurious to herself and others. However, respondent is to be commended for her five years of sobriety and for remaining law abiding since 2009. She continues to regularly meet with her AA sponsor, which demonstrates a commitment to her continued sobriety. She disassociated herself from those individuals who were in her life during the time period that gave rise to her convictions. Her testimony was sincere and believable. Respondent has learned a valuable lesson regarding drug and alcohol abuse. Although her drug and alcohol convictions were expunged in 2011, not enough time has passed to demonstrate a consistent pattern of sobriety and good judgment. Public protection is paramount. It would be against the public interest to permit respondent to have a pharmacy registration, even with probationary terms. Public protection requires that her request for registration be denied.

Cause Exists to Deny Respondent's Application for a Pharmacy Tech Registration

14. Respondent failed to meet her burden of proof.

Cause exists to deny respondent's application for a pharmacy technician registration under Business and Professions Code sections 4300, subdivision (c); 475 subdivision (a)(2) and 4301, in that respondent engaged in unprofessional conduct and was convicted of crimes involving possession of controlled substances.

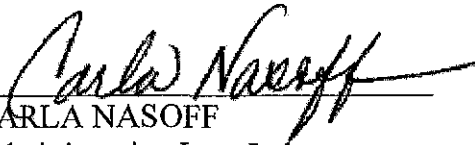
Cause exists to deny respondent's application for a pharmacy technician registration under Business and Professions Code section 480 subdivisions (a)(1), (3)(A) and (3)(B), in that respondent was convicted of possession of heroin, a crime substantially related to the qualifications, functions, or duties of a pharmacy technician.

Cause exist to deny respondent's application for a pharmacy technician registration under Business and Professions Code section 480 subdivision (a)(3)(A), in that respondent's convictions were acts constituting ground for denial that if committed by a registrant, would be grounds for suspension or revocation of the registration.

ORDER

Respondent Camille Diane Rusiniak's application for a pharmacy technician registration, dated April 24, 2013, is DENIED.

DATED: October 6, 2014


CARLA NASOFF
Administrative Law Judge
Office of Administrative Hearings

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8
9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues
12 Against:

Case No. 5087

13 **CAMILLE DIANE RUSINIAK**

STATEMENT OF ISSUES

14 **Pharmacy Technician Registration**
15 **Applicant**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
21 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

22 2. On or about May 20, 2013, the Board of Pharmacy, Department of Consumer Affairs
23 received an application for a Pharmacy Technician Registration from Camille Diane Rusiniak
24 (Respondent). On or about April 24, 2013, Camille Diane Rusiniak certified under penalty of
25 perjury to the truthfulness of all statements, answers, and representations in the application. The
26 Board denied the application on October 16, 2013.

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JURISDICTION

3. This Statement of Issues is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 4300, subdivision (c) of the Code states: "The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure."

STATUTORY PROVISIONS

5. Section 475 of the Code states:

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

6. Section 480 of the Code states:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

1 (2) Done any act involving dishonesty, fraud, or deceit with the intent to
2 substantially benefit himself or herself or another, or substantially injure another.

3 (3)(A) Done any act that if done by a licentiate of the business or profession
4 in question, would be grounds for suspension or revocation of license.

5 (3)(B) The board may deny a license pursuant to this subdivision only if the
6 crime or act is substantially related to the qualifications, functions, or duties of the
7 business or profession for which application is made.

8 (b) Notwithstanding any other provision of this code, no person shall be denied
9 a license solely on the basis that he or she has been convicted of a felony if he or she
10 has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with
11 Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been
12 convicted of a misdemeanor if he or she has met all applicable requirements of the
13 criteria of rehabilitation developed by the board to evaluate the rehabilitation of a
14 person when considering the denial of a license under subdivision (a) of Section 482.

15 (c) A board may deny a license regulated by this code on the ground that the
16 applicant knowingly made a false statement of fact required to be revealed in the
17 application for the license.

18 7. Section 482 of the Code states:

19 Each board under the provisions of this code shall develop criteria to evaluate
20 the rehabilitation of a person when:

21 (a) Considering the denial of a license by the board under Section 480; or

22 (b) Considering suspension or revocation of a license under Section 490.

23 Each board shall take into account all competent evidence of rehabilitation
24 furnished by the applicant or licensee.

25 8. Section 492 of the Code states:

26 Notwithstanding any other provision of law, successful completion of any
27 diversion program under the Penal Code, or successful completion of an alcohol and
28 drug problem assessment program under Article 5 (commencing with section
23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any
agency established under Division 2 ([Healing Arts] commencing with Section 500)
of this code, or any initiative act referred to in that division, from taking disciplinary
action against a licensee or from denying a license for professional misconduct,
notwithstanding that evidence of that misconduct may be recorded in a record
pertaining to an arrest.

This section shall not be construed to apply to any drug diversion program
operated by any agency established under Division 2 (commencing with Section 500)
of this code, or any initiative act referred to in that division.

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1 9. Section 493 of the Code states:

2 Notwithstanding any other provision of law, in a proceeding conducted by a
3 board within the department pursuant to law to deny an application for a license or to
4 suspend or revoke a license or otherwise take disciplinary action against a person who
5 holds a license, upon the ground that the applicant or the licensee has been convicted
6 of a crime substantially related to the qualifications, functions, and duties of the
7 licensee in question, the record of conviction of the crime shall be conclusive
8 evidence of the fact that the conviction occurred, but only of that fact, and the board
9 may inquire into the circumstances surrounding the commission of the crime in order
10 to fix the degree of discipline or to determine if the conviction is substantially related
11 to the qualifications, functions, and duties of the licensee in question.

12 As used in this section, "license" includes "certificate," "permit," "authority,"
13 and "registration."

14 10. Section 4301 of the Code states:

15 The board shall take action against any holder of a license who is guilty of
16 unprofessional conduct or whose license has been procured by fraud or
17 misrepresentation or issued by mistake. Unprofessional conduct shall include, but is
18 not limited to, any of the following:

19

20 (h) The administering to oneself, of any controlled substance, or the use of any
21 dangerous drug or of alcoholic beverages to the extent or in a manner as to be
22 dangerous or injurious to oneself, to a person holding a license under this chapter, or
23 to any other person or to the public, or to the extent that the use impairs the ability of
24 the person to conduct with safety to the public the practice authorized by the license.

25

26 (j) The violation of any of the statutes of this state, or any other state, or of the
27 United States regulating controlled substances and dangerous drugs.

28 (k) The conviction of more than one misdemeanor or any felony involving the
29 use, consumption, or self-administration of any dangerous drug or alcoholic beverage,
30 or any combination of those substances.

31 (l) The conviction of a crime substantially related to the qualifications,
32 functions, and duties of a licensee under this chapter. The record of conviction of a
33 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
34 States Code regulating controlled substances or of a violation of the statutes of this
35 state regulating controlled substances or dangerous drugs shall be conclusive
36 evidence of unprofessional conduct. In all other cases, the record of conviction shall
37 be conclusive evidence only of the fact that the conviction occurred. The board may
38 inquire into the circumstances surrounding the commission of the crime, in order to
39 fix the degree of discipline or, in the case of a conviction not involving controlled
40 substances or dangerous drugs, to determine if the conviction is of an offense
41 substantially related to the qualifications, functions, and duties of a licensee under this
42 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
43 contendere is deemed to be a conviction within the meaning of this provision. The
44 board may take action when the time for appeal has elapsed, or the judgment of
45 conviction has been affirmed on appeal or when an order granting probation is made

1 suspending the imposition of sentence, irrespective of a subsequent order under
2 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
3 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
4 dismissing the accusation, information, or indictment. . . .

5 REGULATORY PROVISIONS

6 11. California Code of Regulations, title 16, section 1769 states:

7 (a) When considering the denial of a facility or personal license under Section
8 480 of the Business and Professions Code, the board, in evaluating the rehabilitation
9 of the applicant and his present eligibility for licensing or registration, will consider
10 the following criteria:

11 (1) The nature and severity of the act(s) or offense(s) under consideration as
12 grounds for denial.

13 (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s)
14 under consideration as grounds for denial under Section 480 of the Business and
15 Professions Code.

16 (3) The time that has elapsed since commission of the act(s) or crime(s)
17 referred to in subdivision (1) or (2).

18 (4) Whether the applicant has complied with any terms of parole, probation,
19 restitution or any other sanctions lawfully imposed against the applicant.

20 (5) Evidence, if any, of rehabilitation submitted by the applicant.

21

22 12. California Code of Regulations, title 16, section 1770 states:

23 For the purpose of denial, suspension, or revocation of a personal or facility
24 license pursuant to Division 1.5 (commencing with Section 475) of the Business and
25 Professions Code, a crime or act shall be considered substantially related to the
26 qualifications, functions or duties of a licensee or registrant if to a substantial degree
27 it evidences present or potential unfitness of a licensee or registrant to perform the
28 functions authorized by his license or registration in a manner consistent with the
public health, safety, or welfare.

29 DRUGS

30 13. Heroin is a Schedule I controlled substance as designated by Health and Safety
31 Code section 11054, subdivision (c)(11), and is a dangerous drug pursuant to Business and
32 Professions Code section 4022,

33 14. Buprenorphine, the generic known commercially as Suboxone, is a Schedule III
34 controlled substance as designated by Health and Safety Code section 11056, subdivision (e), and
35 is a dangerous drug pursuant to Business and Professions Code section 4022.

1 FIRST CAUSE FOR DENIAL OF APPLICATION

2 **(October 18, 2006 Criminal Convictions for Possession of a Controlled Substance &**
3 **Controlled Substance Paraphernalia on October 2, 2006)**

4 15. Respondent's application is subject to denial under sections 480, subdivisions (a)(1)
5 and (a)(3)(A) of the Code in that Respondent was convicted of crimes that are substantially
6 related to the qualifications, duties, and functions of a pharmacy technician, and would be a
7 ground for discipline under section 4301, subdivision (l) of the Code for a registered pharmacy
8 technician. The circumstances are as follows:

9 a. On or about October 18, 2006, in a criminal proceeding entitled *People of the*
10 *State of California vs. Camille Diane Rusiniak, aka Camille Diane Rustniak*, in Orange County
11 Superior Court, case number 06WF3011, Respondent pled guilty to violating one felony count
12 and one misdemeanor count of Health and Safety Code section 11350, subdivision (a), possession
13 of a controlled substance, to wit, heroin; and Health and Safety Codes section 11364, possession
14 of controlled substance paraphernalia. As a result of the guilty plea, the court deferred entry of
15 judgment for a period of 18 months, and Respondent was ordered to complete a drug diversion
16 treatment program pursuant to Penal Code section 1000.

17 b. At a hearing on April 18, 2008, Respondent's Penal Code section 1000
18 proceedings were ordered terminated for noncompliance. Sentence was imposed whereby the
19 court granted Respondent three years formal probation and ordered her to complete a drug
20 treatment program pursuant to Penal Code section 1210. Respondent was ordered to abstain from
21 the use or possession of alcohol and drugs, submit to drug testing and a Fourth Amendment
22 waiver, and comply with felony probation terms. On or about October 2, 2009, Respondent was
23 terminated from the Penal Code section 1210 drug treatment program. She was sentenced to
24 serve 270 days in the Orange County Jail, with credit for 79 days, to run concurrent with the
25 sentence imposed in case number 08HF00001, detailed in paragraph 18, below. The jail sentence
26 was stayed while Respondent was in the drug court program. On or about May 27, 2011, the
27 court granted Respondent's motion to dismiss pursuant to Penal Code section 1385 and 1203.4.

28 ///

1 c. The facts that led to the convictions are that on or about the evening of October
2 2, 2006, the Huntington Beach Police Department was dispatched to investigate a report of drug
3 activity. Upon arrival, a patrol officer made contact with Respondent and a companion sitting in
4 her parked vehicle. Her friend had been observed hiding a bag under his passenger seat, which
5 was found to contain pieces of aluminum foil with burnt residue on them, and small balloons
6 containing what subsequently tested positive for heroin. A further search of the vehicle revealed
7 14 additional concealed balloons of heroin, and short plastic tubes used to inhale heroin smoke.
8 Respondent was evaluated and found to be under the influence; she was arrested for possession of
9 a controlled substance for sale, and under the influence of a controlled substance.

10 **SECOND CAUSE FOR DENIAL OF APPLICATION**

11 **(February 26, 2007 Criminal Convictions for DUI on January 2, 2007)**

12 16. Respondent's application is subject to denial under sections 480, subdivisions (a)(1)
13 and (a)(3)(A) of the Code in that Respondent was convicted of crimes that are substantially
14 related to the qualifications, duties, and functions of a pharmacy technician, and would be a
15 ground for discipline under section 4301, subdivision (l) of the Code for a registered pharmacy
16 technician. The circumstances are as follows:

17 a. On or about February 26, 2007, in a criminal proceeding entitled *People of the*
18 *State of California vs. Camille Diane Rusiniak, aka Camille Diane Rustniak*, in Orange County
19 Superior Court, case number 07WM01670, Respondent was convicted on her plea of guilty of
20 violating Vehicle Code section 23152, subdivision (a), driving under the influence of
21 alcohol/drugs; and Vehicle Code section 23152, subdivision (b), driving with a blood alcohol
22 concentration (BAC) of .08 percent or more, misdemeanors.

23 b. As a result of the convictions, on or about February 26, 2007, Respondent was
24 granted three years informal probation, and ordered to complete a six-month Level 2 First
25 Offender Program and MADD Victim Impact Panel session, pay fines, fees, and restitution, and
26 comply with the terms of DUI probation. After failing to comply with the alcohol program, on or
27 about December 17, 2007, Respondent's probation was revoked and reinstated. She was
28 sentenced to serve seven days in the Orange County Jail, with credit for seven days. After further

1 probation violations, on December 10, 2010, the court ordered Respondent to serve two days in
2 jail, with credit for two days. At a hearing on May 27, 2011, the court granted Respondent's
3 motion to dismiss. The court set aside the guilty plea and the case was dismissed pursuant to
4 Penal Code section 1203.4.

5 c. The facts that led to the convictions are that shortly after midnight, on or about
6 January 2, 2007, a patrol officer with the Huntington Beach Police Department was travelling
7 behind Respondent's vehicle when she was observed swerving in her lane, and straddling lanes.
8 After conducting a traffic stop, the officer made contact with Respondent who admitted she had
9 been drinking. When Respondent exited her vehicle, she staggered to the sidewalk; she had a
10 strong odor of an alcoholic beverage on her breath, her eyes were bloodshot and watery, and her
11 speech was slurred. Respondent was unable to perform the field sobriety tests as explained and
12 demonstrated by the officer, and she was arrested for driving under the influence. During
13 booking, Respondent provided a blood sample which was analyzed with a BAC of .18 percent.

14 **THIRD CAUSE FOR DENIAL OF APPLICATION**

15 **(January 14, 2008 Criminal Conviction for Possession of a Controlled Substance**
16 **on December 13, 2007)**

17 17. Respondent's application is subject to denial under sections 480, subdivisions (a)(1)
18 and (a)(3)(A) of the Code in that Respondent was convicted of a crime that is substantially related
19 to the qualifications, duties, and functions of a pharmacy technician, and would be a ground for
20 discipline under section 4301, subdivision (I) of the Code for a registered pharmacy technician.

21 The circumstances are as follows:

22 a. On or about January 14, 2008, in a criminal proceeding entitled *People of the*
23 *State of California vs. Camille Diane Rustniak, aka Camille Diane Rustniak*, in Orange County
24 Superior Court, case number 08HF0001, Respondent was convicted on her plea of guilty of
25 violating Health and Safety Code section 11350, subdivision (a), possession of a controlled
26 substance, to wit, buprenorphine, a felony.

27 b. As a result of the conviction, on or about January 14, 2008, Respondent was
28 granted three years formal probation, and ordered to complete a drug treatment program pursuant

1 to Penal Code section 1210. Respondent was ordered to abstain from the use or possession of
2 alcohol and drugs, submit to drug testing and a Fourth Amendment waiver, and comply with
3 felony probation terms. After multiple hearings on probation violations, on or about October 2,
4 2009, Respondent was terminated from the Penal Code section 1210 drug treatment program.
5 She was sentenced to serve 270 days in the Orange County Jail, with credit for 79 days, to run
6 concurrent with the sentence imposed in case number 06WF3011, detailed in paragraph 16,
7 above. The jail sentence was stayed while Respondent was in the drug court program. On or
8 about May 27, 2011, the court granted Respondent's motion to dismiss pursuant to Penal Code
9 section 1385 and 1203.4.

10 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

11 **(Multiple Drug & Alcohol-Related Convictions)**

12 18. Respondent's application is subject to denial under section 480, subdivision (a)(3)(A)
13 of the Code in that she was convicted of drug and alcohol-related offenses on October 18, 2006,
14 February 26, 2007, and January 14, 2008, as described in paragraphs 16-18, above. Said
15 convictions would be a ground for discipline under section 4301, subdivision (k) of the Code for a
16 registered pharmacy technician.

17 **FIFTH CAUSE FOR DISCIPLINE**

18 **(Violation of State Laws Regulating Controlled Substances)**

19 19. Respondent's application is subject to denial under section 480, subdivision (a)(3)(A)
20 of the Code in that on or about October 2, 2006 and December 13, 2007, she violated the
21 following state laws regulating controlled substances: Health and Safety Code sections 11350,
22 subdivision (a), and 11364, as described in paragraphs 16 and 18, above. Said violations would
23 be grounds for discipline under section 4301, subdivision (j) of the Code for a registered
24 pharmacy technician.

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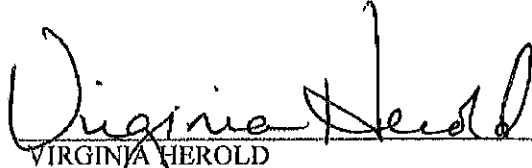
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Denying the application of Camille Diane Rusiniak for a Pharmacy Technician Registration;
2. Taking such other and further action as deemed necessary and proper.

DATED: 5/3/14



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

SD2014706563